

NICK LAMBROS

IBLA 72-451

Decided March 19, 1973

Appeal from decision of New Mexico State Office, Bureau of Land Management, requiring appellant to pay appraised value of \$300 for a small tract.

Affirmed.

Rules of Practice: Appeals: Burden of Proof -- Rules of Practice: Evidence -- Small Tract Act: Appraisals -- Small Tract Act: Sales

Where a small tract is classified for direct sale to an applicant, the applicant has a preference right to purchase the tract at the fair market value established by appraisal. If the applicant disputes the appraised value, the burden is upon the applicant to prove by substantial and positive evidence that the appraisal is erroneous.

Appraisals -- Rules of Practice: Appeals: Generally -- Rules of Practice: Evidence

Tax assessment schedules, in and of themselves, are insufficient evidence to establish that an appraisal, conducted in accordance with Bureau of Land Management standards, is erroneous.

APPEARANCES: Nick Lambros, pro se.

OPINION BY MR. FISHMAN

Nick Lambros has appealed to this Board from a decision of the New Mexico State Office, Bureau of Land Management, dated February 11, 1972. The decision states that the land in issue 1/ is classified for direct sale, and that appellant has a preference right to purchase the

1/ Lot 29, sec. 26, T. 7 N., R. 2 E., N.M.P.M., New Mexico, containing .17 acres.

land under the Small Tract Act, as amended, 43 U.S.C. §§ 682a-682e (1970).

Based upon an appraisal report prepared by a realty specialist of the Bureau of Land Management, the fair market value of the land was determined to be \$300.

In his statement of reasons on appeal, appellant essentially argues that the appraised value of the land is unreasonable and unjust. Appellant does not attack any specific part of the appraisal report, nor does he assert that the appraisal report fails to follow Bureau of Land Management standards. Instead, appellant has submitted to this Board copies of tax assessment schedules which indicate that the value of the land in issue is considerably less than \$300. Appellant argues that these schedules prove that the appraised value of the land is unreasonable. He states that the "tax schedule for 1972 involves a new re-appraisal program conducted in order to update all property in the state to present fair market value effective January 1, 1972."

Where a small tract of land is offered at a direct sale to an applicant who has been granted a preference right, if the applicant contends that the value set for the tract is erroneous, the burden is upon the applicant to prove by substantial and positive evidence that the appraisal is erroneous. Daniel Hicken, A-27877 (March 5, 1959). See Jerry R. Crouse, A-27241 (December 23, 1955); accord, Delores E. DeArman, Arizona 014071 (September 23, 1964); George Marion Grieb, Sacramento 060276 (September 18, 1964); Charles H. Olson, Anchorage 048922 (September 8, 1964).

We have examined the appraisal report and it appears to be in conformity with Bureau of Land Management standards. The report was based upon a comprehensive investigation and consideration of those factors which are commonly considered to affect the value of a parcel of real property.

The rule is well established by the great weight of authority that assessed valuation is not admissible as evidence of value for purposes other than taxation. United States v. Certain Parcels of Land, 261 F.2d 287 (4th Cir. 1958); Annot., 39 A.L.R.2d 209 (1955); 29 Am. Jur. 2d Evidence § 401. In any event, assessed valuation does not have sufficient probative impact to vitiate an appraisal made in accordance with accepted appraisal criteria.

Therefore, we hold that the tax assessment schedules submitted by appellant are insufficient, in and of themselves, to establish that the appraisal conducted by the Bureau is erroneous.

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Frederick Fishman, Member

We concur:

Douglas E. Henriques, Member

Joan B. Thompson, Member

